

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Mark Augustovsky,	:	Hon. Dennis M. Cavanaugh
Petitioner,	:	Civil Action No. 2:09-cv-04251-DMC
v.	:	JOINT STIPULATION OF
	:	DISMISSAL AND <del>PROPOSED</del>
Eric H. Holder, Attorney General,	:	ORDER OF DISMISSAL
Janet A. Napolitano, Secretary of	:	
Homeland Security; Christopher	:	<b>CLOSED</b>
Shanahan, US ICE, New York Field	:	
Office Director; Robert J. Bigott,	:	
Warden of Bergen County Jail,	:	
Respondents.	:	

Petitioner and Respondents, through their counsel, hereby advise the Court that Petitioner was released from immigration detention under the attached Order of Supervision, Release Notification, and Order to Release Alien on March 15, 2010. Pursuant to this release, the parties hereby jointly move the Court to dismiss this action pursuant to Fed. R. Civ. P. 41(a)(1)(ii). It is understood between the parties that Immigration and Customs will not re-detain Petitioner except as provided for in the attached Order of Supervision.

Accordingly, this habeas corpus proceeding shall be dismissed with prejudice, but without prejudice to petitioner's right to file a new petition in the event he is detained again. Each side will bear its own costs.

DATED: April 19, 2010

Respectfully submitted,  
/s/ Farrin R. Anello  
FARRIN R. ANELLO  
American Civil Liberties Union Foundation  
Immigrants Rights' Project  
125 Broad Street, 18th floor  
New York, New York 10004  
(212) 284-7303

JEANNE LOCICERO  
American Civil Liberties Union  
of New Jersey Foundation  
P.O. Box 32159  
Newark, New Jersey 07102  
(973) 642-2086

Attorneys for Petitioner

PAUL J. FISHMAN  
United States Attorney

By:

/s/ Peter G. O'Malley  
PETER G. O'MALLEY  
Assistant U.S. Attorney

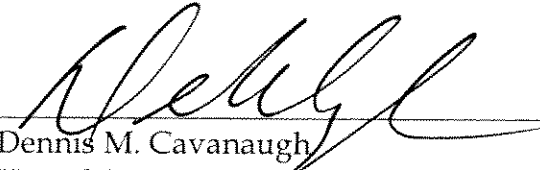
Attorney for Respondents

~~PROPOSED~~ ORDER

The parties having so stipulated, the above is SO ORDERED.

IT IS SO ORDERED.

DATED: April 23, 2010

  
Dennis M. Cavanaugh  
United States District Judge

*Office of Detention and Removal Operations*  
U.S. Department of Homeland Security  
26 Federal Plaza, Suite 1105  
New York, NY 10278



**U.S. Immigration  
and Customs  
Enforcement**

AUGUSTOVSKY, Mark  
C/O Bergen County Jail  
160 South River Street  
Hackensack, NJ 07601

A028 156 896


### **Release Notification**

Upon review of your case, U.S. Immigration and Customs Enforcement (ICE) has concluded that you may be released from custody pending your removal from the United States. This release does not affect your removal order and does not constitute an admission to the United States.

Your release will be subject to certain written conditions that will be provided to you shortly, and by which you must abide. A violation of one or more of these conditions, or of any local, state or federal law may result in you being taken back into custody and any bond, which you may have posted being forfeited. Your release from custody is also conditioned upon your maintaining proper behavior while sponsorship and placement efforts for you are being undertaken.

Prior to your release from custody, an immigration officer will verify the sponsorship or employment offers presented during your review. Please forward any additional information regarding potential sponsoring family members or non-governmental organizations that may be willing to assist you upon release.

It is particularly important that you keep ICE advised of your address at all times. ICE will continue to make efforts to obtain a travel document that will allow the United States government to carry out your removal pursuant to your order of deportation, exclusion, or removal. In addition, you are required by law to continue to make good faith efforts to secure a travel document on your own. Once a travel document is obtained, you will be required to surrender to ICE for removal. You will, at that time, be given an opportunity to prepare for an orderly departure.

  
\_\_\_\_\_  
Christopher Shanahan, Field Office Director  
New York, NY

3/12/10  
\_\_\_\_\_  
Date

RELEASE NOTIFICATION  
 AUGUSTOVSKY, Mark  
 A028 156 896

**PROOF OF SERVICE**

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I MARTIN TORRES, DO,  
Name of ICE Officer Title  
 certify that I served MARK AUGUSTOVSKY with a copy of  
Name of detainee  
 this document at VRK ST on 3/15/2010, at 0850.  
Institution Date Time

(b) I certify that I served the custodian MARTIN TORRES,  
DO, at VRK ST, on  
Name of Official Institution  
3/15/10 with a copy of this document.  
Title Date

**OR**

(2) Service by certified mail, return receipt. (Attach copy of receipt)

I \_\_\_\_\_, \_\_\_\_\_, certify  
Name of INS Officer Title  
 that I served \_\_\_\_\_ and the custodian \_\_\_\_\_,  
Name of detainee Name of Official  
 with a copy of this document by certified mail at \_\_\_\_\_ on \_\_\_\_\_.  
Institution Date

Mark Augustovsky  
 Alien's Signature

3/15/2010  
 Date

( ) cc: Attorney of Record or Designated Representative

( ) cc: A-File

Department of Homeland Security  
Immigration and Customs Enforcement

## Order of Supervision

File No: 028 156 896

Date: March 12, 2010

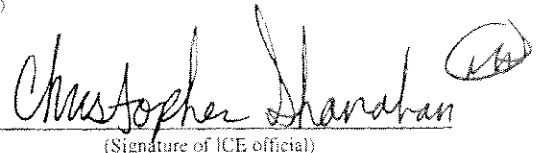
Name: Mark A. GUSTOVSKY

On: January 28, 2010 you were ordered:  
(Date of final order)

- ☐ Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.  
☒ Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the Immigration and Customs Enforcement (ICE) has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- ☒ That you appear in person at the time and place specified, upon each and every request of ICE, for identification and for deportation or removal.
- ☒ That upon request of ICE, you appear for medical or psychiatric examination at the expense of the United States Government.
- ☒ That you provide information under oath about your nationality, circumstances, habits, associations, and activities and such other information as ICE considers appropriate.
- ☒ That you do not travel outside TRI STATE for more than 48 hours without first  
(Specify geographic limits, if any)  
having notified this ICE office of the dates and places of such proposed travel.
- ☒ That you furnish written notice to this ICE office of any change of residence or employment within 48 hours of such change.
- ☒ That you report in person on April 27, 2010 at 09:00 am to this ICE office at: 26 Federal Plaza, 9<sup>th</sup> Floor New York, NY 10278, unless you are granted written permission to report on another date.
- ☒ That you assist the Immigration and Customs Enforcement in obtaining any necessary travel documents.
- ☐ Other:
- ☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)

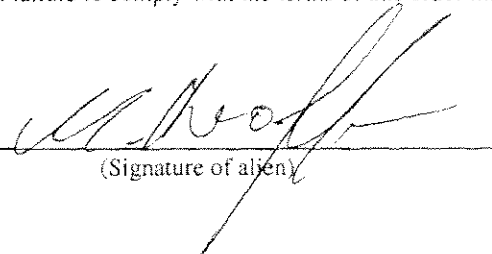
  
(Signature of ICE official)

Christopher Shanahan Field Office Director  
(Print name and title of ICE official)

### Alien's Acknowledgment of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the ENGLISH language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

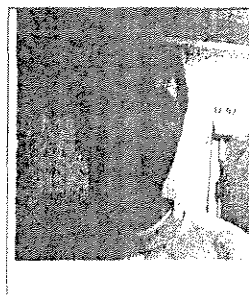
  
(Signature of ICE official serving order)

  
(Signature of alien)

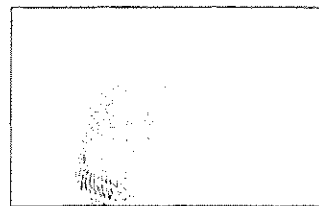
3/15/10  
Date

Date  
March 12, 2010

*Alien's Signature*



RIGHT INDEX PRINT



## PERSONAL REPORT RECORD

[illegible]

Department of Homeland Security  
Immigration and Customs Enforcement

**Order of Supervision-Addendum**

File No: 028 156 896

Date: March 12, 2010

Name: Mark AUGUSTOVSKY

☒ That you do not associate with known gang members, criminal associates, or associate with any such activity.

☐ That you register in a substance abuse program within 14 days and provide the ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a program counselor.

☐ That you register in a sexual deviancy counseling program within 14 days and provide the ICE with written proof of such within 30 days. You must provide the ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.

☐ That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide the ICE with written proof of such within 10 days.

☒ That you do not commit any crimes while on this Order of Supervision.

☒ That you report to any parole or probation officer as required within 5 business days and provide the ICE with written verification of the officers name, address, telephone number, and reporting requirements.

☐ That you continue to follow any prescribed doctors orders whether medical or psychological including taking prescribed medications.

☒ That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.

☒ That you provide ICE with written responses from the Embassy or Consulate regarding your request.

☒ Any violation of the above conditions will may result in revocation of your employment authorization document.

☒ Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.

☐ Other



## ORDER TO DETAIN OR RELEASE ALIEN

TO: (NAME and TITLE of Person in Charge of Facility)

WARDEN

(A) AOD

(Name of Facility)

VARICK

Please ☐ Detain ☒ Release

Date

Time

3/12/10

Name of Alien

AUGUSTOVSKY, MARK

File Number

028156896

Age

Da

36

Sex

Nationality

Foreign Address

M

LITHUANIA

Nature of Proceedings

Removal

Signature of Officer Receiving Alien

## REMARKS:

RELEASE SUBJECT WITH ALL Belongings.  
 SUBJECT Released on ORDER OF SUPERVISION.

Signature of Officer Authorizing Action

Joseph P. Harrington

Title

SODC

Office

VRK NYC

Form 1-203 (Rev. 7-15-78) Y

UNITED STATES DEPARTMENT OF JUSTICE - Immigration and Naturalization Service